

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

JENNIFER VANDERSTOK;
MICHAEL G. ANDREN;
TACTICAL MACHINING, LLC;
FIREARMS POLICY COALITION, INC., *et al.*,

Plaintiffs

MERRICK GARLAND;
UNITED STATES DEPARTMENT OF JUSTICE;
STEVEN DETTELBACH; and BUREAU OF
ALCOHOL, TOBACCO, FIREARMS AND
EXPLOSIVES,

Defendants.

Civil Action No. 4:22-cv-00691-O

**NOT AN LLC d/b/a JSD SUPPLY'S EMERGENCY MOTION FOR INJUNCTION
PENDING APPEAL**

Intervenor-Plaintiff Not An LLC d/b/a JSD Supply (“JSD Supply”) files this emergency motion for an injunction pending appeal. Counsel for JSD Supply conferred with counsel for Defendants who stated they oppose this motion.

Argument

JSD Supply files this emergency motion for an injunction pending appeal or, in the alternative, renews its Motion for Preliminary Injunction (ECF #151). In its June 30, 2023 Order vacating the Final Rule (ECF #227), this Court granted JSD Supply’s Motion to Intervene (ECF #149), but denied JSD Supply’s Motion for a Preliminary Injunction (ECF #151) as being moot, due to this Court’s granting other plaintiffs’ Motion for Summary Judgment and ultimate vacatur of the Final Rule.

Today, the Court granted a seven-day administrative stay of that final judgment, which had provided full relief to JSD Supply. Intervenor-Plaintiffs Defense Distributed and The Second Amendment Foundation, Inc. have taken the position that this Court’s order today “should be understood to resurrect the March 8 preliminary injunction order automatically, without the need for any further party or Court action.” ECF #239 at 2. However, the government takes the opposite position – that the Final Rule is now back in effect *as to everyone*, including the parties who originally received preliminary injunctions from this Court. *Id.*

JSD Supply submits that Intervenor-Plaintiffs have the better argument, and that this Court’s order of today should *not* be understood to have undone the Court’s prior injunctive relief. JSD Supply, however, is in the unique position of never having been the beneficiary of that prior injunctive relief. Rather, this Court denied JSD Supply’s motion for a preliminary injunction as moot, due to the Court’s vacatur of the Final Rule. However, since that Order now has been stayed, JSD Supply’s earlier Motion for Preliminary Injunction (ECF #151) no longer is moot.

If JSD Supply is not protected by either the Court’s existing final judgment (now stayed) or by an individualized injunction pending appeal—then enforcement of the Final Rule could be resumed against JSD Supply. Without relief, the Final Rule will cause further serious and irreparable harm to JSD Supply, for the reasons JSD Supply first introduced at the preliminary injunction stage. As this Court acknowledged, “JSD Supply is a manufacturer and distributor that earns most of its revenue through sales of products now subject to the Final Rule.” ECF #227 at 8; *see also* ECF #152 at 14 (explaining the irreparable harm to JSD Supply, including potentially going out of business).

Conclusion

For the reasons stated, the Court should order that Defendants and their officers, agents, servants, and employees are enjoined from implementing and enforcing against JSD Supply and its customers (except for those individuals prohibited from possessing firearms under 18 U.S.C. § 922(g)) the provisions in 27 C.F.R. §§ 478.11 and 478.12 that the Court preliminarily determined are unlawful.

Dated: July 18, 2023.

Respectfully submitted,

/s/ J. Mark Brewer
J. MARK BREWER
Texas Bar No. 02965010
800 Bering Dr., Suite 201
Houston, TX 77057
Phone: (713) 209-2910
brewer@bplaw.com

MATTHEW J. SMID
Texas Bar No. 24063541
301 Commerce Street, Suite 2001
Fort Worth, Texas 76102
Phone: (817) 332-3822
Fax: (817) 332-2763 Fax
matt@mattsmidlaw.com

*Attorneys for Intervenor-Plaintiff Not an LLC,
dba JSD Supply*

CERTIFICATE OF CONFERENCE

I certify that on July 18, 2023, I conferred with counsel for defendants regarding this motion. Counsel for defendants informed the undersigned that this motion is opposed.

/s/ J. Mark Brewer
J. Mark Brewer

CERTIFICATE OF SERVICE

I certify that on July 18, 2023, the foregoing document was served, via the Court's CM/ECF Document Filing System, upon the registered CM/ECF users in this action.

/s/ J. Mark Brewer
J. Mark Brewer